



Financial Sector  
Conduct Authority

**FSCA CIS NOTICE 4 OF 2020**  
**COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002**

**EXEMPTION OF INVESTEC AUSTRALIA PROPERTY FUND II FROM THE REQUIREMENT  
TO OBTAIN APPROVAL FOR SOLICITATION OF INVESTMENTS AS A FOREIGN  
COLLECTIVE INVESTMENT SCHEME IN TERMS OF SECTION 65(1) OF COLLECTIVE  
INVESTMENT SCHEMES CONTROL ACT, 2002.**

The Financial Sector Conduct Authority, under section 22(a) of the Collective Investment Schemes Control Act, 2002 (Act No 45 of 2002) read with section 281(3) of the Financial Sector Regulation Act, 2017 (Act, No 9 of 2017), hereby exempt Investec Australia Property Fund II ("IAPF II") from the requirement to obtain approval for solicitation of investments as a foreign collective investment scheme in terms of section 65(1) of Act No. 45 of 2002 to the extent set out in the schedule.

A handwritten signature in black ink, appearing to read 'Kedibone Dikokwe', is written over a horizontal line.

**KEDIBONE DIKOKWE**  
**FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY**

**Date of publication: 12 October 2020**

## SCHEDULE

### 1. Definitions

In this Schedule, “**the Act**” means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002) any word or expression to which meaning is assigned in the Act bears that meaning, and unless the context otherwise indicates;

“**ASX**” means the Australian Securities Exchange;

“**CIS**” means collective investment scheme;

“**Conduct Authority**” means Financial Sector Conduct Authority;

“**FCIS**” means Foreign Collective Investment Scheme approved in terms of section 65 of CISCA;

“**IAPF**” means Investec Australia Property Fund, registered as a managed investment scheme under Australian law and approved FCIS;

“**IAPF II**” means Investec Australia Property Fund II, registered as a managed investment scheme under Australian law and not approved as a FCIS;

“**Internalise**” means the transaction envisaged in paragraph (2) of this schedule;

“**JSE**” means the Johannesburg Stock Exchange;

“**New IAPF Group**” means IAPF being stapled to IAPF II;

“**SARB**” means the Financial Surveillance Department of the South African Reserve Bank; and

“**Staple**” means the linking together of Securities so that one may not be dealt with without the other or others, and in relation to a Unit or Option and another Attached Security or other Attached Securities, being linked together so that one may not be dealt with without the other or others.

### 2. Background and purpose

- (1) IAPF is a registered Australian managed investment scheme which invests in real estate assets in Australia and New Zealand. IAPF has a dual primary listing on the JSE and ASX. IAPF is also a FCIS since 2013.
- (2) IAPF wishes to internalise the management of IAPF, relying on its stapling powers in terms of its constitution. The envisaged internalisation of the management of IAPF entails the following:
  - (a) IAPF intends to make a capital distribution (in cash) to existing IAPF unitholders in reliance on existing stapling powers under IAPF's constitution, with such distribution being mandatorily applied by existing IAPF unitholders to subscribe for new units in IAPF II to achieve a stapling of IAPF II and IAPF (such that existing IAPF unitholders will hold stapled securities comprising a unit in IAPF and a unit in IAPF II) (IAPF Group);

- (b) Subsequent to the aforementioned stapling steps, IAPF II will then be listed on the JSE and the ASX;
  - (c) At all times, the unitholders of IAPF shall be the unitholders of IAPF II, and vice versa;
  - (d) the IAPF units and the IAPF II units will be inextricably linked, and unitholders will accordingly be unable to dispose of IAPF units without also disposing of IAPF II units at the same time, and vice versa; and
  - (e) IAPF II will acquire various management entities which will operate the trustee, investment and property management for IAPF. IAPF and IAPF II will have a common Responsible Entity and board of directors.
- (3) In terms of the JSE's Ruling dated 27 August 2020, the substance of the proposed internalisation transaction is the internalisation of the Manager and not the listing of a new applicant issuer. The JSE has no objection to the approach that: (a) for purposes of the listing of the IAPF II units, the listing criteria shall be applied to the IAPF Group as a whole, being the issuer (IAPF) and IAPF II, and not to IAPF II in isolation (on the basis that the issuer (IAPF) and IAPF II units will remain stapled together); and (b) although the listing of units in IAPF II are new securities, it will be stapled to the units of the issuer (IAPF).
- (4) In terms of the SARB's Ruling dated 8 September 2020, it is agreeable to regard the new IAPF Group as the inward entity on the JSE, and that the SARB's approval granted in terms of the Ruling is subject to the following conditions: (a) the matter also being cleared with other relevant regulators (being the JSE and the Conduct Authority), (b) the Conduct Authority granting exemption from the requirement to obtain approval for solicitation of investments as a FCIS in terms of section 65(1) of the Act , and (c) the IAPF and IAPF II units remaining stapled.
- (5) Exemption is sought from the requirement that IAPF II obtain approval for solicitation of investments as a FCIS in terms of section 65(1) of Act No. 45 of 2002.

### **3. The extent of the exemption and conditions**

- (1) IAPF II is hereby exempted from the requirement to obtain approval for solicitation of investments as a FCIS in terms of section 65(1) of the Act, which exemption is granted on the following conditions:
- (a) The IAPF units and the IAPF II units remain inextricably linked, and that unitholders are accordingly only entitled to dispose of an IAPF unit if it also disposes of the stapled IAPF II unit at the same time, and vice versa;
  - (b) The IAPF unitholders approving the proposed internalisation transaction;
  - (c) The requirements and conditions of the Rulings of the JSE and SARB be adhered to at all times; and
  - (d) The exemption granted by the Conduct Authority lapses upon the failure to comply with these conditions.

#### **4. Commencement**

This exemption comes into operation on the date of publication on the website of the Conduct Authority.